JEFFRIES *v.* COMMONWEALTH.

June 13, 1912.

[75 S. E. 90.]

1. Intoxicating Liquors (§ 132*)—Sales on Sunday—Statutes—Repeal.—Code 1904, § 3804, punishing the selling of liquor between 12 o'clock on Saturday night and sunrise of the succeeding Monday morning, is repealed by Act March 12, 1908 (Laws 1908, c. 189), punishing any person selling liquor on Sunday, and repealing inconsistent acts.

[Ed. Note.—For other cases, see Intoxicating Liquors, Cent. Dig. § 141; Dec. Dig. § 132.* 8 Va.-W. Va. Enc. Dig. 20.]

2. Intoxicating Liquors (§ 208*)—Illegal Sales on "Sunday"—Indictment—Requisites.—An indictment alleging that accused sold liquor between midnight of Saturday and sunrise of the succeeding Monday morning does not charge a sale on Sunday, in violation of Act March 12, 1908 (Laws 1908, c. 189), punishing the sale of liquor on Sunday, because a sale made after 12 o'clock Sunday night and before sunrise Monday morning is not a criminal offense, though included in the indictment; "Sunday" being from 12 o'clock Saturday night until 12 o'clock Sunday night.

[Ed. Note.—For other cases, see Intoxicating Liquors, Cent. Dig. §§ 228, 261; Dec. Dig. § 208.*

For other definitions, see Words and Phrases, vol. 7, pp. 6788, 6789; 8 Va.-W. Va. Enc. Dig. 20; 12 Va-W. Va. Enc. Dig. 1036.]

Error to Corporation Court of Roanoke.

One Jeffries was convicted of crime, and he brings error. Reversed, and prosecution dismissed.

Hairston & Willis, A. B. Hunt, and *Hoge & Williams,* for plaintiff in error.

Samuel W. Williams, Atty. Gen., for the Commonwealth.

AMERICAN LOCOMOTIVE CO. et al. *v.* CHALKLEY.

June 13, 1912.

[75 S. E. 90.]

1. **Master and Servant—(§ 125*)—Injuries to Employees—Defective Machinery—Want of Care.**—Where employers, upon being notified of a defect in a machine upon which an employee was working when

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*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

injured, caused it to be put in thorough repair by a competent mechanic, and the machine was thereafter in operation up to within a few moments of the accident with no indication that it was out of repair, they were not chargeable with want of ordinary care in not discovering the defect alleged to have caused the accident.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 243-251; Dec. Dig. § 125.* 9 Va.-W. Va. Enc. Dig. 683, 691.]

2. Master and Servant (§ 125*)—Injuries to Employees—Defective Machinery—Want of Care.—Where the defect in a machine upon which an employee was working at the time of his injury developed in a brief space of time between the stopping and starting of the machine, the employers were not chargeable with knowledge of the defect; nor could it be said that with ordinary care they could have discovered it in time to have prevented the injury.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 243-251; Dec. Dig. § 125.* 9 Va.-W. Va. Enc. Dig. 683, 691.]

3. Master and Servant (§ 125*)—Injuries to Employees—Defective Machinery—Liability of Master.—To render a master liable for injuries to a servant from defects in machinery, it must be shown that the master knew of the defects, or in the exercise of due care ought to have known of them.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 243-251; Dec. Dig. § 125.* 9 Va.-W. Va. Enc. Dig. 680.]

4. Master and Servant (§ 270*)—Injuries to Employees—Admissibility of Evidence.—In an employee's action for injuries from a machine about which he was working, evidence of an alleged custom not to inspect such machines while they continued to work satisfactorily, or within a month or six weeks, was properly excluded, since the tendency of such custom, if allowed to prevail, would contravene the rule of law which imposes upon the master the duty of reasonable care to inspect machinery.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 913-927, 932; Dec. Dig. § 270.* 9 Va.-W. Va. Enc. Dig. 724.]

Error to Circuit Court of City of Richmond.

Action by one Chalkley against the American Locomotive Company and another. From a judgment for plaintiff, defendants bring error. Reversed, and remanded for new trial.

McGuire, Riely & Bryan, for plaintiffs in error.
A. B. Dickinson and *D. M. White,* for defendant in error.

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*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.